

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

KEITH ANDRE WILSON }
TDCJ-CID NO.755744, }
Plaintiff, }
v. } CIVIL ACTION H-09-213
}
TEXAS DEPARTMENT OF CRIMINAL }
JUSTICE, }
Defendant. }

OPINION ON DISMISSAL

Plaintiff, a state inmate incarcerated in the Texas Department of Criminal Justice-Correctional Institutions Division, has filed a civil rights complaint pursuant to 42 U.S.C. § 1983. (Docket Entry No.1). Plaintiff also seeks to proceed *in forma pauperis*. (Docket Entry No.2). A prisoner, however, cannot file a civil action *in forma pauperis* in federal court if, on three or more prior occasions, while incarcerated, he brought an action that was dismissed for being frivolous, malicious, or failing to state a claim upon which relief may be granted. 28 U.S.C. § 1915(g). The only exception to revocation of an inmate's privilege to proceed *in forma pauperis* is if he is in imminent danger of serious physical harm. *Banos v. O'Guin*, 144 F.3d 883, 884 (5th Cir. 1998). Plaintiff's complaint does not indicate that he is in imminent danger.

Plaintiff's litigation history reveals that he falls within the provisions of section 1915(g). *See Wilson v. Dretke*, Civil Action No.H-05-2715 (S.D. Tex. Aug. 10, 2005).

Accordingly, it is ORDERED that this complaint is DISMISSED under 28 U.S.C. §1915(g). Plaintiff's motion to proceed *in forma pauperis* (Docket Entry No.2) is DENIED. All pending motions are further DENIED.

The Clerk will provide a copy of this order to the plaintiff and a copy by facsimile transmission, regular mail, or e-mail to the TDCJ - Office of the General Counsel, Capitol Station, P.O. Box 13084, Austin, Texas, 78711, Fax: 512-936-2159, and the District Clerk for the Eastern District of Texas, 211 West Ferguson, Tyler, Texas 75702, Attention: Manager of the Three-Strikes List.

SIGNED at Houston, Texas, this 16th day of April, 2009.



MELINDA HARMON
UNITED STATES DISTRICT JUDGE